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## Policing against the State: United Nations Policing as Violative of Sovereignty

Alexandra R. Harrington

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# Policing Against the State: United Nations Policing as Violative of Sovereignty

ALEXANDRA R. HARRINGTON, ESQ.\*

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## I. INTRODUCTION

As any moviegoer will tell you, the essence of the tension in a police movie is typically that the police and the person(s) being chased or sought do not share the same values or beliefs as to truth, justice and the application of either. Even within police themed movies, however, there is a dichotomy between the relationship and implications of the police and policed in a situation where both groups share the same nationality and socio-legal referents and where the police are an outside force that shares no common national and socio-legal referents to create an understanding.<sup>1</sup> These differences in philosophy are important to this article because they serve as microcosms for legal systems and police systems in general and particularly in situations where domestic conflict has caused outside actors to enter the policing arena.

The cinematic comparisons made above are meant to serve as a basic framework for the topic of this article: the effect of United Nations policing efforts on the concept of state sovereignty. Police movies are used to illustrate the idea that there is necessarily a lacuna of commonality and understanding between those who occupy part or all of a nation and carry out a police function—for whatever reason—and those who are in the occupied area and find themselves policed. This lacuna exists in civilian police settings, the author argues, because there is a different sense of function and place between civilian police and military forces. It is the author's contention that both parties to the policing arrangement—be they individuals, states, or organizations—give up portions of their sovereignty in the creation and maintenance of the police and policed relationship where the police are not serving the state which theoretically guards the policed.

Part II of this article provides a discussion of legal concepts of state sovereignty in international law. Part III examines the role of police in U.N. peacekeeping missions from the first peacekeeping mission entailing policing operations in the 1960s through present day operations. This examination reveals a pattern in the growth and development of policing

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1. Consider, for example, the role and relationships of the police in *The Fugitive* and *Casablanca*.

activities in peacekeeping missions across the world. Some scholars believe this growth towards a robust policing element in U.N. peacekeeping is a new phenomenon which typifies the post-Cold War world's instabilities and the increased inability of the United Nations Security Council's (UNSC) to reach a consensus on conflict-related issues.<sup>2</sup> The author posits that robust policing was both authorized and tacitly used well before the end of the Cold War. It is the author's view that, although the end of the Cold War might have allowed greater latitude in some peacekeeping operations, the current trend of robust policing activities is inherently attached to the concept of U.N. peacekeeping *per se*. This observation brings with it serious consequences for issues of respect of state sovereignty and the ability of a state to lose its sovereignty to the international system through U.N. police forces in U.N. peacekeeping missions.<sup>3</sup>

Part IV of this article addresses issues involving U.N. policing. From a lack of training for the specific mission requirements to fundamental differences in accepted police conduct within the sending state to fundamental differences in expectations of police and U.N. missions generally, there are a staggering number of basic and truly important issues which are unaddressed by the U.N. prior to and during police deployment. There are also incredibly few instances of fundamental appreciation for and inclusion of the experiences, expectations, and goals of the people policed by U.N. police in the mission plans and structure used by U.N. police; indeed, the U.N. police are often unable to protect themselves and their fellow mission members from the same conduct which they were deployed to stop.

The issues highlighted in Part IV and the background provided in Parts II and III link together in Part V. Here, the author examines the role of U.N. policing on the sovereignty of: (1) the state to which U.N. police are deployed ("recipient state"), and (2) the sending state of the

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2. See Nina M. Serafino, Cong. Research Serv., *Policing in Peacekeeping and Related Stability Operations: Problems and Proposed Solutions* 6 (Mar. 30, 2004), available at <http://www.fas.org/man/crs/RL32321.pdf> (last visited Sept. 19, 2008); ULF HÄUSSLER, *ENSURING AND ENFORCING HUMAN SECURITY: THE PRACTICE OF INTERNATIONAL PEACE MISSIONS: LEGAL FRAMEWORK, MILITARY OPERATIONS, POLITICAL RAMIFICATIONS* § 1.2 (2007).

3. The issue of using an international police force on peacekeeping and other missions mounted by regional organizations—such as the African Union (AU) and the European Union (EU)—is outside the intended scope of the article due to the author's belief that these organizations do not threaten sovereignty to the same extent as the U.N.'s policing actions do because of their regional quality.

U.N. police itself. The author concludes that the sovereignty of both the recipient state and the sending state is undermined by the current U.N. policing model in varying ways. It is the author's belief that to further the asserted goals of the U.N. and maintain the system of state sovereignty on which international law is premised, U.N. policing should be done away with in favor of policing activities such as those used by the American government. In this system, police are trained in modern policing tactics and human rights legal concepts and then serve as the police force for the community independent of an international organization for guidance or approval.

Part VI concludes the article with the idea that, as in international cinema, policing by persons with shared understandings of the system and its legal, moral, and procedural framework is superior to policing by an outside entity in terms of sovereignty protections.<sup>4</sup>

## II. SOVEREIGNTY CONCEPTS

Sovereignty is often easier to conceptualize than to define. Initial concepts of sovereignty focused on a monarch who reigned over a particular domain and was owed a duty by the local population for his protection.<sup>5</sup> In such an arrangement, the sovereign was free to engage in conquest as he saw fit to enhance the primacy of his sovereignty through territory.<sup>6</sup>

Since the end of World War II, sovereignty has become linked to state recognition, which in turn has become linked to dual concepts of statehood qualification and political approval. To be recognized as a sovereign state, a state must actually be deemed to exist.<sup>7</sup> The standard test applied by the international community for statehood existence is: (1) a population, (2) a territory, (3) effective control of the territory and people claimed to be a part of the state, and (4) the ability to enter into agreements with members of the international community.<sup>8</sup> Even if a

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4. This must be tempered by the caveat that the author's recommendations are tailored to states which have not completely lost their governmental structure. For example, the author believes strongly in the need for outside police, especially military police, in situations like Iraq, where the government is gone, a new government has yet to be established, and there is a directly accountable state providing the police structure while training local inhabitants to be their own police force.

5. Yoram Dinstein, *Sovereignty, the Security Council and the Use of Force*, in REDEFINING SOVEREIGNTY: THE USE OF FORCE AFTER THE COLD WAR (Michael Bothe, Mary Ellen O'Connell & Natalino Ronzitti eds. 2005)

6. *See id.*

7. *See* MALCOLM N. SHAW, INTERNATIONAL LAW 368 (5th ed. 2003).

8. *Id.* at 178. For the purposes of later discussions in the article, the important element to consider in the policing context is effective control of the territory and population.

state can demonstrate that it meets these criteria, commonly referred to as the “Montevideo factors,” it is not guaranteed to be classified as a sovereign state within the world community.<sup>9</sup> Rather, the state must increasingly meet the political requirements of the international community at that time.<sup>10</sup>

Sovereignty as an absolute protection for those ruling a state has come under attack in recent years, and incidents in the former Yugoslavia, Rwanda, and Darfur have exacerbated the questions surrounding this formerly well-established principle.<sup>11</sup> Although it is generally accepted that the international community prefers not to allow previously existing states to cease existing in the international system,<sup>12</sup> there is no tenet in current international law which prohibits the weakening of a state’s internal sovereignty through actions such as U.N. peacekeeping and policing. At the same time, Ban Ki-Moon, the current Secretary General of the United Nations, has said that the legal and political concept of state sovereignty must come second to multi-nationalism in the future.<sup>13</sup> The views of Mr. Ban aside, international law, both treaty and customary, and the municipal law of states in the international system still recognizes state sovereignty as a bedrock principle and it will be treated as such for the purposes of this article.

### III. POLICING IN U.N. PEACEKEEPING MISSIONS

#### *A. What is U.N. Policing?*

U.N. police deployments are similar to peacekeeping deployments in that they are staffed by national contingents belonging to U.N. member

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9. *Id.*

10. *See id.* at 368–76 (discussing the many other criteria which the international community and its member have and currently use to determine whether to recognize a state and thus legitimate its sovereignty).

11. The key issue presented in each of these instances is the appropriate balance between respecting the territorial and political sovereignty of a state and protecting the interests of the native populations in the face of extant and threatened human rights abuses.

12. SHAW, *supra* note 7, at 186–89.

13. U.N. Secretary-General, Message on United Nations Day 2007 (“The world is changing in the United Nations’ favour—as more people and Governments understand that multilateralism is the only path in our interdependent and globalizing world. Global problems demand global solutions—and going it alone is not a viable option. Whether we are speaking of peace and security, development, or human rights, demands on our Organization are growing every day.”).

states.<sup>14</sup> With limited exceptions, there are typically fewer U.N. police officers assigned to a peacekeeping mission than there are peacekeepers.<sup>15</sup> U.N. police are drawn from different sources depending on the policing structure used by the sending state. In states such as the United States, where there is no national police per se,<sup>16</sup> U.N. policing units are comprised of state and local police.<sup>17</sup> In states which have a national police, such as the French Gendarmerie, U.N. policing units are comprised of members of the national police entity.<sup>18</sup> When deployed to a U.N. mission, national contingents of police are under the nominal control of the designated chief police official for the particular U.N. mission, although ultimately these police officers must act in accordance with the demands of their sending states and the established rules for the U.N. mission.<sup>19</sup> U.N. police share a similar limitation on power with peacekeepers in that, except in instances where the UNSC specifically permits it or where the U.N. police are acting as the sole policing entity for the area administered, they are unable to use force to prevent or deter crime.<sup>20</sup>

## *B. U.N. Police Missions*

### *1. 1960s*

West New Guinea was the site of one of the U.N.'s first peacekeeping operations when, in 1962, the UNSC authorized the creation of the United Nations Security Force (UNSF) in West New Guinea.<sup>21</sup> The goal of this mission was almost exclusively policing, with the UNSF working to supplement the local police and to assist the United Nations Temporary Executive Authority (UNTEA) in its administration of the area until the planned transfer of the area from Dutch control to the Indonesian government.<sup>22</sup> This mission was concluded in April 1963

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14. See United Nations Police, <http://www.un.org/Depts/dpko/police/index.shtml> (last visited Sept. 19, 2008).

15. See United Nations Police Deployment, <http://www.un.org/Depts/dpko/police/map.pdf> (last visited Sept. 19, 2008).

16. In the author's view, the National Guard does not meet the description of a national policing entity because it is a military entity which can, in times of crisis, fulfill a civilian police function but is not trained in police tactics or investigatory abilities in the same way as a member of the Beninese Gendarmerie.

17. See Serafino, *supra* note 2, at 20.

18. See ROBERT M. PERITO, WHERE IS THE LONE RANGER WHEN WE NEED HIM? AMERICA'S SEARCH FOR A POSTCONFLICT STABILITY FORCE 37–46 (2004).

19. *Id.* at 86.

20. See *id.*

21. See United Nations Security Force in West New Guinea Mandate, [http://www.un.org/Depts/dpko/dpko/co\\_mission/unsfmandate.html](http://www.un.org/Depts/dpko/dpko/co_mission/unsfmandate.html) (last visited Sept. 19, 2008).

22. See *id.*

when the contemplated transfer of power and control occurred.<sup>23</sup> UNSF is especially important to the author because it demonstrates that, at the height of the Cold War and the inception of U.N. peacekeeping as a usable concept, the U.N. police were authorized to and did stand in the stead of local police forces and administer the policing component of an area in its entirety.

One of the best known of the early U.N. peacekeeping missions was the U.N. Operation in the Congo (ONUC), created in 1960 to stop the disintegration of the Congo after it gained independence.<sup>24</sup> From a policing standpoint, ONUC was also unusual and notable in that its police forces were comprised solely of units from one nation.<sup>25</sup>

In 1964, the UNSC created the U.N. Peacekeeping Force in Cyprus (UNFICYP) to assist in the implementation of a ceasefire between the Greek Cypriots and the Turkish Cypriots, each of whom laid claim to the island.<sup>26</sup> UNFICYP is still in existence today and is the oldest U.N. peacekeeping mission to consistently use a policing element in its operations.<sup>27</sup> Although the U.N. has been present on Cyprus for over forty years, it has been and is a perpetual target of violence and attacks from all sides in the ongoing hostilities, and U.N. police are often used to protect the mission from such attacks.<sup>28</sup> In addition, members of UNFICYP have frequently found their movements and observer capabilities restricted by both sides in the conflict.<sup>29</sup> There have also been sustained problems with the U.N.'s ability to police the borders of the buffer zone, which it created to stop incursions into the designated territories assigned to each group.<sup>30</sup> Although the U.N. extended UNFICYP at the end of 2007, this extension came with the admission that UNFICYP was unable to fully perform its policing and other functions.<sup>31</sup>

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23. See *id.*; United Nations Security Force in West New Guinea Facts and Figures, [http://www.un.org/Depts/dpko/dpko/co\\_mission/unssfacts.html](http://www.un.org/Depts/dpko/dpko/co_mission/unssfacts.html) (last visited Sept. 19, 2008).

24. PERITO, *supra* note 18, at 83; Serafino, *supra* note 2, at 44.

25. See *id.*

26. S.C. Res. 186, U.N. Doc. S/RES/186 (Mar. 24, 1964).

27. See United Nations Peacekeeping Force in Cyprus, <http://www.un.org/Depts/dpko/missions/unficypr/index.html> (last visited Sept. 19, 2008).

28. See S.C. Res. 1758, U.N. Doc. S/RES/1758 (Jun. 15, 2007); S.C. Res. 1178, U.N. Doc. S/RES/1178 (Jun. 29, 1998).

29. See generally *id.*

30. *Id.*

31. See S.C. Res. 1758, U.N. Doc. S/RES/1758 (Jun. 15, 2007).



## 2. 1980s

With an impending election in the newly independent state of Namibia looming, the UNSC created the U.N. Transition Assistance Group (UNTAG) in 1989 and tasked its troops and police officers with monitoring the situation in Namibia leading up to and during these elections.<sup>32</sup> Given the limited nature of UNTAG's mandate, it was terminated in 1990 after the completion of the elections.<sup>33</sup>

## 3. 1990s

In 1991, the United Nations Observer Mission in El Salvador (ONUSAL) was created by the UNSC with a mandate to "monitor[] the human rights situation . . . ; investigat[e] . . . human rights violations; promot[e] human rights . . . ; [and make] recommendations for the elimination of violations."<sup>34</sup> Later, ONUSAL's mandate was extended to include verification of ceasefire enforcement and monitoring throughout the area<sup>35</sup> as well as election monitoring during the 1994 elections.<sup>36</sup> Among the greatest accomplishments credited to ONUSAL and its police force was having "phased out" the old Salvadorian police force and having trained freshly recruited police officers to create a new force.<sup>37</sup>

Also in 1991, the UNSC created the U.N. Mission for the Referendum in Western Sahara (MINURSO).<sup>38</sup> MINURSO was initially created to assist in bringing about a peaceful resolution to the land claims issue which plagued the Western Sahara region.<sup>39</sup> Throughout their deployment, the U.N. police in MINURSO have performed three functions: providing security to tribal and U.N. officials, assisting in identification issues, and assisting in the issue of refugee repatriation.<sup>40</sup> In 2003, MINURSO

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32. S.C. Res. 632, U.N. Doc. S/RES/632 (Feb. 16, 1989).

33. See United Nations Transition Assistance Group, [http://www.un.org/Depts/dpko/dpko/co\\_mission/untag.htm](http://www.un.org/Depts/dpko/dpko/co_mission/untag.htm) (last visited Sept. 19, 2008).

34. United Nations Observer Mission in El Salvador, [http://www.un.org/Depts/dpko/dpko/co\\_mission/onusalbackgr2.html](http://www.un.org/Depts/dpko/dpko/co_mission/onusalbackgr2.html) (last visited Sept. 19, 2008).

35. S.C. Res. 729, U.N. Doc. S/RES/729 (Jan. 14, 1992).

36. S.C. Res. 832, U.N. Doc. S/RES/832 (May 27, 1993).

37. See United Nations Observer Mission in El Salvador, [http://www.un.org/Depts/dpko/dpko/co\\_mission/onusalbackgr2.html](http://www.un.org/Depts/dpko/dpko/co_mission/onusalbackgr2.html) (last visited Sept. 19, 2008).

38. S.C. Res. 690, U.N. Doc. S/RES/690 (Apr. 29, 1991).

39. See *id.*

40. See The Secretary-General, *Report of the Secretary-General on the Situation Concerning Western Sahara, delivered to the Security Council*, U.N. Doc. S/2006/817 (Oct. 16, 2006); The Secretary-General, *Report of the Secretary-General on the Situation Concerning Western Sahara, delivered to the Security Council*, U.N. Doc. S/1998/35 (Jan. 15, 1998).

significantly drew down its policing component.<sup>41</sup> Currently, a small contingent exists at MINURSO to provide security to visiting family members of the U.N. peacekeepers.<sup>42</sup>

The U.N. maintained a peacekeeping presence in Angola from 1988 onwards, although no police were a part of this mission until 1991, when the former mission, the U.N. Angola Verification Mission I (UNAVEM I), was phased out.<sup>43</sup> UNAVEM II, created in 1991, was tasked with overseeing the withdrawal verification process and monitoring the national police for the duration of the ceasefire.<sup>44</sup> Unfortunately, the presence of UNAVEM II did not stop the violence in Angola.<sup>45</sup> This increased violence resulted in a revised UNAVEM II mandate in 1993, including the maintenance of the peace process and keeping the security situation in Angola under effective control as mission tasks.<sup>46</sup> In 1995, UNAVEM II was terminated in favor of the UNAVEM III, which continued the attempt to assist in ceasefire implementation until 1997.<sup>47</sup> During this time, the U.N. police were again tasked with maintaining security despite the continued violence and unrest in Angola.<sup>48</sup> Specifically, the police deployed to UNAVEM III were asked to “verify and monitor the neutrality of the Angolan National Police, the disarming of civilians, the quartering of the rapid reaction police and security arrangements for UNITA<sup>49</sup> leaders.”<sup>50</sup> Finally, the UNSC replaced UNAVEM III with the U.N. Observer Mission in Angola (MONUA) in

41. The Secretary-General, *Report of the Secretary-General on the Situation Concerning Western Sahara, delivered to the Security Council*, U.N. Doc. S/2003/1016 (Oct. 16, 2003).

42. The Secretary-General, *Report of the Secretary-General on the Situation Concerning Western Sahara, delivered to the Security Council*, U.N. Doc. S/2006/817 (Oct. 16, 2006).

43. See United Nations Angola Verification Mission I Facts and Figures, <http://www.un.org/Depts/DPKO/Missions/unavem1/Unavem1F.html> (last visited Sept. 19, 2008).

44. S.C. Res. 696, U.N. Doc. S/RES/696 (May 30, 1991).

45. See S.C. Res. 834, U.N. Doc. S/RES/834 (Jun. 1, 1993); S.C. Res. 811, U.N. Doc. S/RES/811 (Mar. 12, 1993); S.C. Res. 804, U.N. Doc. S/RES/804 (Jan. 29, 1993).

46. See *id.*

47. See United Nations Angola Verification Mission II Mandate, <http://www.un.org/Depts/DPKO/Missions/Unavem2/UnavemIIM.htm> (last visited Sept. 19, 2008).

48. See United Nations Angola Verification Mission III Profile, [http://www.un.org/Depts/dpko/dpko/co\\_mission/unavem\\_p.htm](http://www.un.org/Depts/dpko/dpko/co_mission/unavem_p.htm) (last visited Sept. 19, 2008).

49. UNITA is the acronym for the Uniao Nacional para a Independencia Total de Angola, the rebel group which persistently fought the Angolan government during this period.

50. See United Nations Angola Verification Mission III Profile, [http://www.un.org/Depts/dpko/dpko/co\\_mission/unavem\\_p.htm](http://www.un.org/Depts/dpko/dpko/co_mission/unavem_p.htm) (last visited Sept. 19, 2008).

1997.<sup>51</sup> MONUA's mandate contained an expansive list of police functions, including those previously required of U.N. police and an additional focus on the administration of Angolan prisons.<sup>52</sup> During the time of MONUA's deployment, the violence in Angola escalated and hostilities were rekindled between the warring parties.<sup>53</sup> MONUA's mandate ended after two U.N. aircraft were shot down by unidentified Angolan combatants.<sup>54</sup>

The United Nations Transitional Authority in Cambodia (UNTAC) was the second of three U.N. missions deployed to Cambodia during the 1990s and the first to include a policing component.<sup>55</sup> Initially, UNTAC was created to oversee the free election process envisioned by the Paris Agreements of 1991 and to assist the Cambodians in demining activities.<sup>56</sup> Additionally, the U.N. police component was tasked to, among other things, "supervise the activities of the administrative structures, including the police."<sup>57</sup> The U.N. police went on to supervise civilian and other police in Cambodia, develop codes of conduct for the Cambodian police, and assist in border patrolling.<sup>58</sup> UNTAC ended in 1993.<sup>59</sup>

The UNSC created the United Nations Mission of Observers in Tajikistan (UNMOT) with the initial mandate of monitoring a ceasefire and assisting in the implementation of a human rights regime in Tajikistan.<sup>60</sup> Three years later, and amid continuing hostilities in Tajikistan, the UNSC expanded the mandate of UNMOT to include the general recreation of civil society and governmental function in the area.<sup>61</sup> While UNMOT only saw the introduction of two police officers to the mission, these officers were instrumental in attempts to mold civil society and the government of Tajikistan.<sup>62</sup> Ultimately, UNMOT was terminated in 2000.<sup>63</sup>

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51. S.C. Res. 1118, U.N. Doc. S/RES/1118 (Jun. 30, 1997).

52. See United Nations Observer Mission in Angola Mandate, <http://www.un.org/Depts/DPKO/Missions/Monua/monuam.htm> (last visited Sept. 19, 2008).

53. See United Nations Observer Mission in Angola Background, <http://www.un.org/Depts/DPKO/Missions/Monua/monuab.htm> (last visited Sept. 19, 2008).

54. See *id.*

55. S.C. Res. 745, U.N. Doc. S/RES/745 (Feb. 28, 1992).

56. *Id.*

57. United Nations Transitional Authority in Cambodia Background, [http://www.un.org/Depts/dpko/dpko/co\\_mission/untacbackgr1.html](http://www.un.org/Depts/dpko/dpko/co_mission/untacbackgr1.html) (last visited Sept. 19, 2008).

58. See *id.*

59. See *id.*

60. S.C. Res. 968, U.N. Doc. S/RES/968 (Dec. 16, 1994).

61. S.C. Res. 1138, U.N. Doc. S/RES/1138 (Nov. 14, 1997).

62. See *id.*; United Nations Mission of Observers in Tajikistan Facts and Figures, <http://www.un.org/Depts/DPKO/Missions/unmot/UnmotF.html> (last visited Sept. 19, 2008).

63. See United Nations Mission of Observers in Tajikistan, <http://www.un.org/Depts/DPKO/Missions/unmot/Unmot.htm> (last visited Sept. 19, 2008).

In 1992, the UNSC created the U.N. Operation in Mozambique (ONUMOZ) to monitor a ceasefire agreement.<sup>64</sup> This operation included a maximum of over one thousand police officers.<sup>65</sup> These police officers were tasked with functions, such as disarmament and demobilization monitoring, “monitor[ing] and verify[ing] the disabling of private and irregular armed groups,” U.N. personnel and property protection, and coordinating human rights protections.<sup>66</sup> ONUMOZ ended in 1994.<sup>67</sup>

The first U.N. peacekeeping and policing mission to Haiti was created in 1993.<sup>68</sup> Referred to as the U.N. Mission in Haiti (UNMIH), this mission lasted until 1996 and was tasked with creating new Haitian police forces, modernizing Haiti’s armed forces, and monitoring the provisions of the 1993 ceasefire between the warring factions in Haiti.<sup>69</sup> In 1994, the UNSC expanded UNMIH’s authorized mission to include: “sustaining the secure and stable environment established during the multinational phase and protecting international personnel and key installations,” and “the professionalization of the Haitian armed forces and the creation of a separate police force.”<sup>70</sup> The UNSC ended UNMIH in June 1996 and created U.N. Support Mission in Haiti (UNSMIH) in July 1996 to perform essentially the same functions as UNMIH.<sup>71</sup> This mission lasted for a year and was replaced by the U.N. Transition Mission in Haiti (UNTMIH), which lasted for four months and was tasked with the same functions as UNMIH and UNSMIH.<sup>72</sup> When UNTMIH was allowed to expire in 1997, the UNSC then authorized the creation of the U.N. Civilian Police Mission in Haiti (MIPONUH).<sup>73</sup>

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64. S.C. Res. 797, U.N. Doc. S/RES/797 (Dec. 16, 1992).

65. United Nations Operation in Mozambique Facts & Figures, [http://www.un.org/Depts/dpko/dpko/co\\_mission/onumozF.html](http://www.un.org/Depts/dpko/dpko/co_mission/onumozF.html) (last visited Sept. 19, 2008).

66. United Nations Operation in Mozambique Mandate, [http://www.un.org/Depts/dpko/dpko/co\\_mission/onumozM.htm](http://www.un.org/Depts/dpko/dpko/co_mission/onumozM.htm) (last visited Sept. 19, 2008).

67. See United Nations Operation in Mozambique Summary & Background, [http://www.un.org/Depts/dpko/dpko/co\\_mission/onumozS.htm](http://www.un.org/Depts/dpko/dpko/co_mission/onumozS.htm) (last visited Sept. 19, 2008).

68. See S.C. Res. 867, U.N. Doc. S/RES/867 (Sept. 23, 1993).

69. See *id.*

70. S.C. Res. 940, U.N. Doc. S/RES/940 (Jul. 31, 1994).

71. S.C. Res. 1063, U.N. Doc. S/RES/1063 (Jun. 28, 1996); S.C. Res. 1048, U.N. Doc. S/RES/1048 (Feb. 26, 1996).

72. See United Nations Support Mission in Haiti Mandate, [http://www.un.org/Depts/dpko/dpko/co\\_mission/unsmihmandate.html](http://www.un.org/Depts/dpko/dpko/co_mission/unsmihmandate.html) (last visited Sept. 19, 2008); United Nations Transition Mission in Haiti, [http://www.un.org/Depts/dpko/dpko/co\\_mission/untmih.htm](http://www.un.org/Depts/dpko/dpko/co_mission/untmih.htm) (last visited Sept. 19, 2008).

73. See United Nations Civilian Police Mission in Haiti, [http://www.un.org/Depts/dpko/dpko/co\\_mission/miponuh.htm](http://www.un.org/Depts/dpko/dpko/co_mission/miponuh.htm) (last visited Sept. 19, 2008).

MIPONUH was given the same mandate as its predecessors, with a special emphasis placed on supervisory training for civilian police by U.N. police, the training of special police units within the constructed Haitian civil police body, and “guiding police agents in their day-to-day duties.”<sup>74</sup> After three years, MIPONUH was unable to carry out this mandate fully and ceded control of policing tasks to the International Civil Support Mission in Haiti, which was not under the auspices of the U.N. Department of Peacekeeping.<sup>75</sup>

In 1992, the UNSC created its first peacekeeping mission in Somalia (UNOSOM I).<sup>76</sup> This force was ultimately insufficient to meet the needs of the situation in Somalia and, in 1993, the UNSC discontinued UNOSOM I in favor of UNOSOM II.<sup>77</sup> UNOSOM II’s first mandate involved the prevention of violence resumption, disarmament supervision, the protection of international personnel and assisting the refugees created by the Somalia conflict.<sup>78</sup> In 1994, the UNSC created a new mandate for UNOSOM II.<sup>79</sup> Regarding U.N. policing in the UNOSOM II mission, this mandate included “[a]ssisting in the reorganization of the Somali police and justice system,” overseeing repatriation projects, “assisting the political process in Somalia,” and the protection of international personnel.<sup>80</sup> Despite these tasks and the presence of U.N. troops, the U.N. withdrew UNOSOM II in 1995 because of heavy mission casualties and a lack of progress in the peace process.<sup>81</sup>

The UNSC created the U.N. Assistance Mission for Rwanda (UNAMIR) in 1993.<sup>82</sup> Initially, the primary police concerns were monitoring ceasefire implementation and subsequent disarmament and destabilization attempts, assisting in the security of selected cities and human rights assistance.<sup>83</sup> However, during 1994 the situation in Rwanda became worse and the UNAMIR staff generally was tasked with the job of acting as intermediaries in the conflict.<sup>84</sup> It was during this time that genocidal acts occurred within U.N. monitored areas without the intervention of U.N. police or peacekeepers.<sup>85</sup> In the wake of the events of 1994, the

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74. *Id.*

75. *See id.*

76. S.C. Res. 751, U.N. Doc. S/RES/751 (Apr. 24, 1992).

77. S.C. Res. 814, U.N. Doc. S/RES/814 (Mar. 26, 1993).

78. *See id.*

79. S.C. Res. 897, U.N. Doc. S/RES/897 (Feb. 4, 1994).

80. *Id.*

81. *See* United Nations Operation in Somalia II Summary & Background, [http://www.un.org/Depts/dpko/dpko/co\\_mission/unosom2backgr1.html](http://www.un.org/Depts/dpko/dpko/co_mission/unosom2backgr1.html) (last visited Sept. 19, 2008).

82. S.C. Res. 872, U.N. Doc. S/RES/872 (Oct. 5, 1993).

83. *See id.*

84. *See* HÄUSSLER, *supra* note 2, at § 3.3.1.

85. *See id.*

UNSC added a specific police component description to UNAMIR's mandate.<sup>86</sup> In 1996, the UNSC terminated UNAMIR's mandate.<sup>87</sup>

Also in 1993, the UNSC created the U.N. Observer Mission in Georgia (UNOMIG), with the mandate of ceasefire monitoring.<sup>88</sup> UNOMIG continues to function as a U.N. peacekeeping mission with police presence today.<sup>89</sup> Interestingly, the U.N. shares jurisdiction over the contested area of Georgia with peacekeepers from the former Russian states (collectively, the Commonwealth of Independent States or "CIS"), which have exerted more effective control over the region throughout UNOMIG's history.<sup>90</sup> The primary policing function ascribed to UNOMIG initially was to assist in law enforcement training at the mission.<sup>91</sup> At the same time that the U.N. zone was the subject of many criminal acts, other areas of Georgia which had been affected by the conflict were maintaining their own, separate local police forces.<sup>92</sup> Notably, a hostage-taking incident involving U.N. personnel occurred in 2003, ten years after UNOMIG's deployment to the region.<sup>93</sup> Later in 2003, the UNSC adopted a resolution mandating more robust policing for UNOMIG.<sup>94</sup> However, the rebels effectively blocked the deployment of

86. S.C. Res. 997, U.N. Doc. S/RES/997 (Jun. 9, 1995).

87. See United Nations Assistance Mission for Rwanda Mandate, [http://www.un.org/Depts/dpko/dpko/co\\_mission/unamirM.htm](http://www.un.org/Depts/dpko/dpko/co_mission/unamirM.htm) (last visited Sept. 19, 2008).

88. S.C. Res. 858, U.N. Doc. S/RES/858 (Aug. 24, 1993).

89. United Nations Observer Mission in Georgia Facts & Figures, <http://www.un.org/Depts/dpko/missions/unomig/facts.html> (last visited Sept. 19, 2008).

90. The Secretary-General, *Report of the Secretary-General Concerning the Situation in Abkhazia, Georgia, delivered to the Security Council*, U.N. Doc. S/1994/529 (May 3, 1994) (discussing the general relationship between the U.N. and CIS contingents). For a thorough understanding of the relationship between the U.N. and CIS contingents during the course of UNOMIG, see generally the Reports of the Secretary-General, U.N. Docs. S/1994/529–S/2007/588, available at <http://www.un.org/Depts/dpko/missions/unomig/unomigDrp.htm> (last visited Sept. 19, 2008).

91. See The Secretary-General, *Report of the Secretary-General on the Situation in Abkhazia, Georgia, delivered to the Security Council*, U.N. Doc. S/2003/751 (Jul. 21, 2003).

92. See The Secretary-General, *Reports of the Secretary-General*, U.N. Doc. S/1997/340–S/2007/588, available at <http://www.un.org/Depts/dpko/missions/unomig/unomigDrp.htm> (last visited Sept. 19, 2008).

93. See The Secretary-General, *Report of the Secretary-General on the Situation in Abkhazia, Georgia, delivered to the Security Council*, U.N. Doc. S/2003/751 (Jul. 21, 2003).

94. See The Secretary-General, *Report of the Secretary-General on the Situation in Abkhazia, Georgia, delivered to the Security Council*, U.N. Doc. S/2003/1019 (Oct. 17, 2003).

any further U.N. police.<sup>95</sup> Additionally, the UNOMIG police force was unable to provide the required local police training because of local and rebel resistance to the idea.<sup>96</sup> These issues have continued unabated from 2003 to the present.<sup>97</sup>

In 1995, the U.N. created the United Nations Mission in Bosnia and Herzegovina (UNMIBH) as the successor mission to the United Nations Protection Force (UNPROFOR).<sup>98</sup> From the outset, it was intended that this mission include a police function and presence.<sup>99</sup> Due to the failures of the UNPROFOR mission in stopping the hostilities and violence on the ground, UNMIBH's functions themselves were ambiguous and allowed the Secretary General a large amount of leeway for the governance and function of the mission.<sup>100</sup> However, these functions soon grew to include the creation of a new police force for Bosnia, one which was intended to be a "European" police force rather than a police force staffed with and constructed on the ideals of the local population.<sup>101</sup> UNMIBH ended in 2002.<sup>102</sup>

Sierra Leone has seen several U.N. peacekeeping missions over the past decade. The first, the U.N. Observer Mission in Sierra Leone (UNOMSIL), lasted a little over a year and was terminated after its peacekeeping troops were forced to evacuate under threat of attack.<sup>103</sup> Originally, UNOMSIL's mandate required that its members, including police:

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95. See The Secretary-General, *Report of the Secretary-General on the Situation in Abkhazia, Georgia, delivered to the Security Council*, U.N. Doc S/2004/26 (Jan. 14, 2004). As a side note, it can be argued that allowing a rebel group which claims the right to control over a certain territory the ability to block U.N. or other actions specifically agreed to by the host state erodes the sovereignty of the host state because it implies that the host state is not able to control the affairs occurring within its borders. This, in turn, can be seen as legitimizing the rebel group as well.

96. See, e.g., The Secretary-General, *Report of the Secretary-General on the Situation in Abkhazia, Georgia, delivered to the Security Council*, U.N. Doc. S/2005/32 (Jan. 17, 2005).

97. See The Secretary-General, *Report of the Secretary-General on the Situation in Abkhazia, Georgia, delivered to the Security Council*, S/2007/588 (Oct. 3, 2007); The Secretary-General, *Report of the Secretary-General on the Situation in Abkhazia, Georgia, delivered to the Security Council*, U.N. Doc. S/2003/751 (Jul. 21, 2003).

98. S.C. Res. 1035, U.N. Doc. S/RES/1035 (Dec. 21, 1995).

99. See *id.*

100. See *id.*

101. See Dilshika Jayamaha, United Nations Civilian Police: Towards a Framework For Effective Assessments of International Peacekeeping Operations at 80 (Feb 2007) (unpublished M.A. thesis, John Jay College of Criminal Justice of the City University of New York) (on file with author).

102. See United Nations Mission in Bosnia and Herzegovina—Mandate, <http://www.un.org/Depts/dpko/missions/unmibh/mandate.html> (last visited Sept. 19, 2008).

103. See U.N. Observer Mission in Sierra Leone Background, <http://www.un.org/Depts/DPKO/Missions/unomsil/UnomsilB.htm> (last visited Sept. 19, 2008).

[A]dvise. . . the Government of Sierra Leone and local police officials on police practice, training, re-equipment and recruitment, in particular on the need to respect internationally accepted standards of policing in democratic societies, to advise on the planning of the reform and restructuring of the Sierra Leone police force and to monitor progress in that regard;

[. . . R]eport on violations of international humanitarian law and human rights in Sierra Leone, and, in consultation with the relevant United Nations agencies, to assist the government of Sierra Leone in its efforts to address the country's human rights needs.<sup>104</sup>

After UNOMSIL disintegrated, the UNSC created the U.N. Mission in Sierra Leone (UNAMSIL) with additional forces to attempt a greater and more robust international presence in Sierra Leone.<sup>105</sup> Ultimately, UNAMSIL was unsuccessful in its efforts and was replaced by the U.N. Integrated Office for Sierra Leone, a non-peacekeeping office established by the UNSC in 2005.<sup>106</sup> Initially, UNAMSIL was tasked with, in relevant part, assisting with the disarmament and implementation of the applicable ceasefire, ensuring the safety of U.N. personnel, offering election support, and support to the parties.<sup>107</sup> By 2000, the U.N. policing component of UNAMSIL was tasked to “. . . coordinate with and assist . . . the Sierra Leone law enforcement authorities in the discharge of their responsibilities,” and provide security to “strategic locations” in Sierra Leone.<sup>108</sup> In 2001, the UNSC found that it had to reiterate the goals of UNAMSIL, many of which were based in its policing arm.<sup>109</sup> Specifically, the UNSC stated:

[T]he main objectives of UNAMSIL . . . remain[] to assist the efforts of the Government of Sierra Leone to extend State authority, restore law and order and further stabilize the situation progressively throughout the entire country, and to assist in the promotion of the political process, leading to a renewed disarmament, demobilization and reintegration program[] where possible . . .<sup>110</sup>

The Central African Republic was the sight of a U.N. peacekeeping mission in 1998 entitled U.N. Mission in the Central African Republic

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104. S.C. Res. 1181, U.N. Doc. S/RES/1181 (Jul. 13, 1998).

105. S.C. Res. 1270, U.N. Doc. S/RES/1270 (Oct. 22, 1999).

106. See United Nations Mission in Sierra Leone Background, <http://www.un.org/Depts/dpko/missions/unamsil/background.html> (last visited Sept. 19, 2008).

107. S.C. Res. 1270, U.N. Doc. S/RES/1270 (Oct. 22, 1999).

108. S.C. Res. 1289, U.N. Doc. S/RES/1289 (Feb. 7, 2000).

109. S.C. Res. 1346, U.N. Doc. S/RES/1346 (Mar. 30, 2001).

110. U.N. Security Council, *Report of the Security Council to the General Assembly*, at 90, U.N. Doc. A/56/2 (Sept. 19, 2001).



(MINURCA).<sup>111</sup> MINURCA entailed many police functions, key among them being to:

To assist in maintaining and enhancing security and stability, including freedom of movement . . . ;

To assist the national security forces in maintaining law and order and in protecting key installations . . . ;

To supervise, control storage, and monitor the final disposition of all weapons retrieved in the course of the disarmament exercise;

To ensure security and freedom of movement of United Nations personnel and the safety and security of United Nations property;

To assist in coordination with other international efforts in a short-term police trainees program and in other capacity-building efforts of the national police, and to provide advice on the restructuring of the national police and special forces.<sup>112</sup>

MINURCA continued until 2000, after key elections were held in the Central African Republic.<sup>113</sup>

In 1999, the UNSC authorized the creation of the United Nations Transitional Administration in East Timor (UNTAET).<sup>114</sup> The UNSC resolution vested UNTAET with the “responsibility for the administration of East Timor, [was] empowered to exercise all legislative and executive authority, including the administration of justice.”<sup>115</sup> Police, as well as peacekeepers, were vested with authority to essentially recreate East Timorese civil society with little guidance other than the general requirements of the UNSC resolutions and the rules of engagement.<sup>116</sup> UNTAET ended in 2002 when the UNSC did not extend its mandate in favor of the creation of UNMISSET, discussed below.<sup>117</sup>

In 1999, the U.N. Organization Mission in the Democratic Republic of the Congo (MONUC) became the second U.N. peacekeeping mission to the Congo.<sup>118</sup> MONUC is still in existence, controversially,<sup>119</sup> eight

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111. S.C. Res. 1159, U.N. Doc. S/RES/1159 (Mar. 27, 1998).

112. *Id.*

113. See United Nations Mission in the Central African Republic Background, <http://www.un.org/Depts/DPKO/Missions/minurcaB.htm> (last visited Sept. 19, 2008).

114. S.C. Res. 1272, U.N. Doc. S/RES/1272 (Oct. 25, 1999).

115. *Id.*

116. See *id.*

117. See United Nations Transitional Administration in East Timor, <http://www.un.org/peace/etimor/etimor.htm> (last visited Sept. 19, 2008).

118. S.C. Res. 1291, U.N. Doc. S/RES/1291 (Feb. 24, 2000). The previous mission was the United Nations Operation in the Congo (ONUC). See United Nations Operation in the Congo, <http://www.un.org/Depts/DPKO/Missions/onuc.htm> (last visited Sept. 19, 2008).

119. In 2005, MONUC was the first U.N. mission to be plagued by persistent and verifiable allegations of sexual abuse by peacekeepers; this issue continues to harass MONUC and the U.N. generally. See Alexandra R. Harrington, *Victims of Peace:*

years after its creation.<sup>120</sup> As with many peacekeeping missions, MONUC was created with the original intent of monitoring and assisting in the implementation of a ceasefire.<sup>121</sup> Despite its military and police component, the UNSC faulted MONUC for its inability to protect the local population from violence in 2001.<sup>122</sup> After nearly being discontinued, MONUC was extended with enhanced policing requirements to assess the capabilities and training levels of the national and local Congolese police.<sup>123</sup> At various times, the MONUC police were required to act as bodyguards to certain elected Congolese officials and to coordinate the framework for police with the Congolese Minister of the Interior.<sup>124</sup> Throughout the policing component of MONUC, there is a pervasive sense of understanding that the local and national Congolese police are the problem and that MONUC police must fix this problem as part of their mission.<sup>125</sup>

In its most daring departure from the text of the U.N. Charter and principles of respect of sovereignty, in 1999, the UNSC established the U.N. Mission in Kosovo (UNMIK).<sup>126</sup> UNMIK functions today as it was intended—to be a transition government in Kosovo pending the outcome of the issue of Kosovar independence.<sup>127</sup> Although Kosovo officially declared its independence from Serbia in February 2008—and has been accepted as a legitimate state by the United States and most of

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*Current Abuse Allegations Against U.N. Peacekeepers and the Role of Law in Preventing Them in the Future*, 12 ILSA J. INT'L & COMP. L. 125 (2005).

120. See United Nations Organization Mission in the Democratic Republic of the Congo, <http://www.un.org/Depts/dpko/missions/monuc/> (last visited Sept. 19, 2008).

121. S.C. Res. 1279, U.N. Doc. S/RES/1279 (Nov. 30, 1999).

122. See S.C. Res. 1341, U.N. Doc. S/RES/1341 (Feb. 22, 2001).

123. S.C. Res. 1445, U.N. Doc. S/RES/1445 (Dec. 4, 2002).

124. The Secretary-General, *Third Special Report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo, delivered to the Security Council*, U.N. Doc. S/2004/650 (Aug. 16, 2004); The Secretary-General, *Fifteenth Report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo, delivered to the Security Council*, U.N. Doc. S/2004/251 (Mar. 25, 2004).

125. See The Secretary-General, *Special Report of the Secretary-General on Elections in the Democratic Republic of Congo, delivered to the Security Council*, U.N. Doc. S/2005/320 (May 26, 2005).

126. U.N. Interim Administration Mission in Kosovo, About the United Nations Interim Administrative Mission in Kosovo (2007), <http://www.unmikonline.org/intro.htm> (last visited Sept. 19, 2008).

127. See *id.*

Europe—UNMIK still functions as a governmental body in Kosovo.<sup>128</sup> Currently, UNMIK officials and EU officials are negotiating the drawing down of UNMIK's presence and operations in Kosovo.<sup>129</sup> For the purposes of this article, UNMIK's nine years of history relative to policing activities in Kosovo will be discussed. In terms of U.N. policing, UNMIK's police operation serves as the Kosovar police and fulfills every function of a standard municipal or national police force—depending upon the nation—as well as investigations of allegations against individuals from the Kosovo conflict.<sup>130</sup> The police element of UNMIK, like the other administrative elements of UNMIK, is overseen by a U.N. representative as set forth in the constitution of Kosovo, which was drafted by the U.N. shortly after the cessation of hostilities.<sup>131</sup>

#### 4. 2000–present

In 2002, the UNSC created the United Nations Mission of Support in East Timor (UNMISET) to oversee the implementation of peace in the newly independent state of East Timor.<sup>132</sup> Although these goals were supportive at the time UNMISET was created, the unrest in East Timor continued unabated by the presence of U.N. peacekeepers and police, resulting in the UNSC's 2003 decision to increase the amount of police authorized for the mission and the policing mission per se.<sup>133</sup> Despite the presence of an ever-increasing number of U.N. police, the Secretary General's reports to the UNSC reflect a relatively unchanged level of crime.<sup>134</sup> The Secretary General's reports to the UNSC regarding UNMISET are illustrative in that they chart the growing involvement of the U.N. police force with local policing in East Timor, setting the stage for the complete takeover of East Timorese police operations by the U.N. policing force by a different U.N. peacekeeping mission.<sup>135</sup> By late 2003, the Secretary General reported that the U.N. police were actively

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128. See U.N. Interim Administration Mission in Kosovo, Recent Events Make it More Challenging for U.N. to Administer Kosovo—envoy (Jul. 25, 2008), <http://www.unmikonline.org/news.htm#1508> (last visited Oct. 1, 2008).

129. See *id.*

130. See United Nations Police, <http://www.un.org/Depts/dpko/police/index.shtml> (last visited Sept. 19, 2008).

131. See About the United Nations Interim Administrative Mission in Kosovo, <http://www.unmikonline.org/intro.htm> (last visited Sept. 19, 2008).

132. S.C. Res. 1410, U.N. Doc. S/RES/1410 (May 17, 2002).

133. S.C. Res. 1473, U.N. Doc. S/RES/1473 (Apr. 4, 2003).

134. See The Secretary-General, *Special Report of the Secretary-General on the United Nations Mission of Support in East Timor*, delivered to the Security Council, U.N. Doc. S/2004/117 (Feb. 13, 2004); The Secretary-General, *Report of the Secretary-General on the United Nations Mission of Support in East Timor*, delivered to the Security Council, U.N. Doc. S/2002/1223 (Nov. 6, 2002).

135. See sources cited *supra* note 135.

involved in providing legal as well as policing research to the East Timorese.<sup>136</sup> Throughout the Secretary General's reports on UNMISSET it is clear that, while the situation involving crime and its punishment had not changed drastically since the deployment of UNMISSET policing forces, it was the goal of the Secretary General to portray the situation as needing further U.N. intervention.<sup>137</sup>

In 2003, the UNSC created the U.N. Mission in Liberia (UNMIL) to assist in the supervision of an attempted ceasefire between the parties.<sup>138</sup> The initial UNSC authorizing mandate was reformed slightly to specifically provide for "1,115 civilian police officers, including formed units to assist in the maintenance of law and order throughout Liberia."<sup>139</sup> Practically, this authorization was used to allow the U.N. police to restructure police and social services in Liberia, including "[a]ll the institutions in the criminal justice sphere."<sup>140</sup> These tasks came to include the restructuring of the Liberian national police in the way determined by the U.N. police unit and screening for all new recruits to the national police.<sup>141</sup> Throughout 2005, the situation in Liberia became more violent and the U.N. police were asked to assist peacekeepers in quelling incidents of rebellion.<sup>142</sup> The U.N. claimed that these incidents were a demonstration of the weakness of the new national police force and used this claim to substantiate the need for continued U.N. police

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136. The Secretary-General, *Report of the Secretary-General on the United Nations Mission of Support in East Timor, delivered to the Security Council*, U.N. DOC. S/2003/944 (Oct. 6, 2003).

137. See The Secretary-General, *Special Report of the Secretary-General on the United Nations Mission of Support in East Timor, delivered to the Security Council*, S/2004/117 (Feb. 13, 2004); The Secretary-General, *Report of the Secretary-General on the United Nations Mission of Support in East Timor, delivered to the Security Council*, U.N. Doc. S/2002/1223 (Nov. 6, 2002).

138. S.C. Res. 1497, U.N. Doc. S/RES/1497 (Aug. 1, 2003).

139. S.C. Res. 1509, U.N. Doc. S/RES/1509 (Sept. 19, 2003).

140. The Secretary-General, *Report of the Secretary-General to the Security Council on Liberia, delivered to the Security Council*, U.N. Doc. S/2003/875 (Sept. 11, 2003).

141. The Secretary-General, *First Progress Report of the Secretary-General on the United Nations Mission in Liberia, delivered to the Security Council*, U.N. Doc. S/2003/1175 (Dec. 15, 2003).

142. See The Secretary-General, *Eighth Progress Report of the Secretary-General on the United Nations Mission in Liberia, delivered to the Security Council*, U.N. Doc. S/2005/560 (Sept. 1, 2005).

monitoring of and involvement in the national police apparatus.<sup>143</sup> By 2007, violence continued to be a problem in Liberia, with the U.N. stating it had been unable to physically place members of the new national police in communities and areas where necessary.<sup>144</sup>

In 2004, the U.N. Operation in Burundi (ONUB) was created; it was maintained by the UNSC until 2006.<sup>145</sup> The UNSC authorized ONUB members to do everything from disarmament to institutional rebuilding. The U.N. police had the requirement “to carry out institutional reforms as well as the constitution of the integrated national defence [sic] and internal security forces and, in particular, the training and monitoring of the police, while ensuring that they are democratic and fully respect human rights and fundamental freedoms.”<sup>146</sup> In 2006, the UNSC allowed ONUB’s mandate to expire in favor of the newly created U.N. Integrated Office in Burundi, a non-peacekeeping entity.<sup>147</sup>

Also in 2004, the UNSC created the U.N. Operation in Cote D’Ivoire (UNOCI) with the goal of facilitating the implementation of a 2003 ceasefire between the warring parties.<sup>148</sup> Among UNOCI’s tasks were the “provision of technical assistance for the reform and restructuring of [police] institutions,” as well as training of the Ivorian police forces.<sup>149</sup> Despite the wishes of the Ivorian Gendarmerie, U.N. police worked their way into the functioning of the Ivorian National Police School, Operation Center for Prefecture of Police, Judicial Police, Traffic Unit, and International Airport police.<sup>150</sup> The presence and involvement of the U.N. police did not, however, increase the safety of the Cote D’Ivoire.<sup>151</sup> The U.N. police role became heavily centered on providing security to

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143. The Secretary-General, *Tenth Progress Report of the Secretary-General on the United Nations Mission in Liberia*, delivered to the Security Council, U.N. DOC. S/2006/159 (Mar. 14, 2006).

144. The Secretary-General, *Fifteenth Progress Report of the Secretary-General on the United Nations Mission in Liberia*, delivered to the Security Council, U.N. DOC. S/2007/479 (Aug. 8, 2007).

145. S.C. Res. 1545, U.N. Doc. S/RES/1545 (May 21, 2004).

146. *Id.*

147. See United Nations Operation in Burundi, <http://www.un.org/Depts/dpko/missions/onub/> (last visited Sept. 19, 2008).

148. S.C. Res. 1528, U.N. Doc. S/RES/1528 (Feb. 27, 2004).

149. The Secretary-General, *First Report of the Secretary-General on the United Nations Operation in Côte d’Ivoire*, delivered to the Security Council, U.N. DOC. S/2004/443 (Jun. 2, 2004).

150. The Secretary-General, *Third Progress Report of the Secretary-General on the United Nations Operation in Côte d’Ivoire*, delivered to the Security Council, U.N. DOC. S/2004/962 (Dec. 9, 2004).

151. See The Secretary-General, *Fourth Progress Report of the Secretary-General on the United Nations Operation in Côte d’Ivoire*, delivered to the Security Council, U.N. DOC. S/2005/186 (Mar. 18, 2005); The Secretary-General, *First Report of the Secretary-General on the United Nations Operation in Côte d’Ivoire*, delivered to the Security Council, U.N. DOC. S/2004/443 (Jun. 2, 2004).

U.N. personnel, as well as some “monitoring and mentoring” of the local police.<sup>152</sup>

As mentioned above, the U.N. returned to Haiti in 2004 when the UNSC created the U.N. Stabilization Mission in Haiti (MINUSTAH), which is currently an active mission involving U.N. police as well as peacekeepers.<sup>153</sup> The MINUSTAH mandate made it clear that U.N. police were to play a central role in this mission, tasking them with:

- a) . . . support[ing] of the Transitional Government, to ensure a secure and a stable environment within which the constitutional and political process in Haiti can take place;
- b) . . . assist[ing] the Transitional Government in monitoring, restructuring and reforming the Haitian National Police, consistent with democratic policing standards, including through the vetting and certification of its personnel, advising on its reorganization and training, including gender training, as well as monitoring/mentoring members of the Haitian National Police;
- . . .
- d) . . . assist[ing] with the restoration and maintenance of the rule of law, public safety and public order in Haiti through the provision inter alia of operational support to the Haitian National Police and the Haitian Coast Guard, as well as with their institutional strengthening, including the re-establishment of the corrections system;
- e) . . . protect[ing] United Nations personnel, facilities, installations and equipment and to ensure the security and freedom of movement of its personnel, taking into account the primary responsibility of the Transitional Government in that regard;
- f) . . . protect[ing] civilians under imminent threat of physical violence, within its capabilities and areas of deployment, without prejudice to the responsibilities of the Transitional Government and of police authorities.<sup>154</sup>

Despite these goals, the U.N. has been the target of consistent and sustained violence in the wake of MINUSTAH's deployment and the police have been tasked with assisting in the safety of U.N. personnel.<sup>155</sup> MINUSTAH police have also been involved in reforming the Haitian

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152. See The Secretary-General, *Fourteenth Progress Report of the Secretary-General on the United Nations Operation in Côte d'Ivoire*, delivered to the Security Council, U.N. Doc. S/2007/593 (Oct. 1, 2007); The Secretary-General, *Seventh Progress Report of the Secretary-General on the United Nations Operation in Côte d'Ivoire*, delivered to the Security Council, U.N. Doc. S/2006/2 (Dec. 9, 2004).

153. S.C. Res. 1541, U.N. Doc. S/RES/1541 (Apr. 29, 2004); S.C. Res. 1529, U.N. Doc. S/RES/1529 (Feb. 29, 2004).

154. S.C. Res. 1542, U.N. Doc. S/RES/1542 (Apr. 30, 2004).

155. See, e.g., The Secretary-General, *Report of the Secretary-General on the United Nations Stabilization Mission to Haiti*, delivered to the Security Council, U.N. Doc. S/2005/313 (May 13, 2005).

police and policing system.<sup>156</sup> Throughout 2006, the language of the Secretary General's reports indicated that the Secretary General believed the Haitian police to be operationally and infrastructurally inadequate and these reports frequently noted that the U.N. police component of MINUSTAH was insufficient to allow it to more fully operate the Haitian police.<sup>157</sup>

In 2005, the UNSC created the U.N. Mission in the Sudan (UNMIS) to provide support to a ceasefire agreement between the Sudanese government and one of the rebel groups operating in the Sudan.<sup>158</sup> From its inception, UNMIS was intended to involve itself in the policing and rule of law mechanisms used in the Sudan.<sup>159</sup> One of the first Secretary General reports on UNMIS stated the opinion that the Sudanese police were inadequate; this was used as the fundamental principle guiding UNSC resolutions and SG authorizations for the UNMIS operational standards.<sup>160</sup> Interestingly, despite this condemnation, the police deployed to UNMIS were first tasked not with curbing the high crime rate in the areas of the Sudan to which they were deployed but rather with training the Sudanese police in policing methods.<sup>161</sup> After a year, the Secretary General's report indicated the goal of U.N. police in UNMIS was to reform both the national and local police in the Sudan "along "international democratic standards."<sup>162</sup> In 2007, the Secretary General's reports increasingly called for UNMIS police to become involved in community protection, the protection of U.N. personnel, escort duties for displaced persons and others, and "confidence-building patrols."<sup>163</sup> Later in 2007, the U.N. police took credit for intervening to release seventy-five "persons unlawfully held in local police and prison custody," although the reasons surrounding the illegality of the Sudanese holding these

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156. See The Secretary-General, *Report of the Secretary-General on the United Nations Stabilization Mission to Haiti*, delivered to the Security Council, U.N. DOC. S/2005/631 (Oct. 6, 2005).

157. See The Secretary-General, *Report of the Secretary-General on the United Nations Stabilization Mission to Haiti*, delivered to the Security Council, U.N. DOC. S/2006/592 (July 28, 2006); The Secretary-General, *Report of the Secretary-General on the United Nations Stabilization Mission to Haiti*, delivered to the Security Council, U.N. DOC. S/2005/60 (Feb. 2, 2006).

158. See S.C. Res. 1590, U.N. DOC. S/RES/1590 (Mar. 24, 2005).

159. *Id.*

160. The Secretary-General, *Report of the Secretary-General on the Sudan*, delivered to the Security Council, U.N. DOC. S/2004/787 (Oct. 4, 2004).

161. The Secretary-General, *Report of the Secretary-General on the Sudan*, delivered to the Security Council, U.N. DOC. S/2005/57 (Jan. 31, 2005).

162. The Secretary-General, *Report of the Secretary-General on Darfur*, delivered to the Security Council, U.N. DOC. S/2006/591 (Jul. 28, 2006). The Secretary-General did not define "international democratic standards" of policing or police reform.

163. The Secretary-General, *Monthly report of the Secretary-General on Darfur*, delivered to the Security Council, U.N. DOC. S/2007/104 (Feb. 23, 2007).

prisoners and the laws under which their incarceration was illegal (i.e., international law, Sudanese law, or local law) were not discussed.<sup>164</sup> According to the UNSC's authorization for the newly created African Union/United Nations Hybrid Operation in Darfur (UNAMID), it is intended that many of UNMIS' policing functions be resumed under UNAMID.<sup>165</sup> However, to date the U.N. has been unsuccessful in convincing its member states to send forces to UNAMID.<sup>166</sup>

In 2006, the UNSC created the U.N. Integrated Mission in Timor-Leste (UNMIT), its fourth peacekeeping mission to the East Timor region.<sup>167</sup> This mission was created with the express goal of bringing stability to the region and is still ongoing today.<sup>168</sup> In terms of policing, UNMIT appropriated prior missions' involvement in Timorese police training and monitoring and also began to train the Timorese police in a criminal procedure code as well as an internal disciplinary code.<sup>169</sup> It is essential to remember that these codes were not created by the Timorese per se, but were a compilation of views as to what the respective codes and practices should be. As the situation in Timor-Leste continued to be violent and the government manifested an inability to control the violence and its causes, the U.N. stepped up the involvement of UNMIT police in the overall Timorese policing situation.<sup>170</sup> Currently, the U.N. and the Timorese government have agreed that the U.N. police should act as the police force for Timor-Leste until further notice.<sup>171</sup> This includes screening potential recruits for an anticipated Timorese national

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164. The Secretary-General, *Report of the Secretary-General on the Sudan, delivered to the Security Council*, U.N. Doc. S/2007/500 (Aug. 20, 2007).

165. See S.C. Res. 1769, U.N. Doc. S/RES/1769 (Jul. 31, 2007).

166. See U.N. Admits Darfur Troop Shortfall, BBC NEWS (Sept. 18, 2008), <http://news.bbc.co.uk/2/hi/africa/7622337.stm> (last visited Oct. 1, 2008).

167. See United Nations Integrated Mission in Timor-Leste, <http://www.un.org/Depts/dpko/missions/unmit/index.html> (last visited Sept. 19, 2008).

168. S.C. Res. 1704, U.N. Doc. S/RES/1704 (Aug. 25, 2006).

169. See *id.* See also The Secretary-General, *Report of the Secretary-General on Justice and Reconciliation in Timor-Leste, delivered to the Security Council*, U.N. Doc. S/2006/580 (Jul. 26, 2006); The Secretary-General, *End of Mandate Report of the Secretary-General on the United Nations Office in Timor-Leste, delivered to the Security Council*, U.N. Doc. S/2006/251 (Apr. 20, 2006).

170. S.C. Res. 1745, U.N. Doc. S/RES/1745 (Feb. 22, 2007).

171. See The Secretary-General, *Report of the Secretary-General on the United Nations Integrated Mission in Timor-Leste (for the period from 27 January to 20 August 2007), delivered to the Security Council*, U.N. Doc. S/2007/513 (Aug. 28, 2007).



police force, thus giving UNMIT the ability to control the future composition and mentality of Timorese police.<sup>172</sup>

The UNSC authorized the U.N. Mission in the Central African Republic and Chad (MINURCAT) in September 2007 in response to concerns that refugees and unrest from the Darfur region in the Sudan could act as a destabilizing effect on the Central African Republic and Chad.<sup>173</sup> Many tasks have been assigned to the up to 300 authorized U.N. police officers who will be part of MINURCAT.<sup>174</sup> It is important to note that Chad's original request for a peacekeeping-like force was to protect the Sudanese refugee areas only; instead, the UNSC initially mandated that some of the Chadian police force be appropriated by the U.N. police to act as seconds for them.<sup>175</sup> These officers would have been hand-picked by U.N. police, trained by the U.N., kept separate from their counterparts in the standard Chadian police force, and made to wear U.N. uniforms although technically not part of the U.N. policing apparatus.<sup>176</sup> After receiving complaints regarding this idea, the UNSC changed its policing mandate slightly to emphasize that the selected members of the Chadian police would retain their status as solely allied with Chad and would not wear U.N. uniforms; the rest of the plan has been maintained.<sup>177</sup> The UNSC has stated that it wants the Chadian police to create a special refugee force, which the U.N. would train.<sup>178</sup> The UNSC has also adopted a plan to create "zones" within Chad in which international police and Chadian police trained by them would operate.<sup>179</sup> Although the mandate for the Central African Republic portion of MINURCAT's policing operations is less explicit, the UNSC has stated that, overall, it intends for MINURCAT to provide support to U.N. troops and train the local troops in each nation affected.<sup>180</sup>

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172. *See id.*

173. S.C. Res. 1778, U.N. Doc. S/RES/1778 (Sept. 25, 2007).

174. *See id.*

175. *See* The Secretary-General, *Report of the Secretary-General on Chad and the Central African Republic, delivered to the Security Council*, U.N. Doc. S/2006/1019 (Dec. 22, 2006).

176. *See* The Secretary-General, *Report of the Secretary-General on Chad and the Central African Republic, delivered to the Security Council*, U.N. Doc. S/2007/97 (Feb. 20, 2007).

177. *See* The Secretary-General, *Report of the Secretary-General on Chad and the Central African Republic, delivered to the Security Council*, U.N. Doc. S/2007/488 (Aug. 10, 2007).

178. *See id.*

179. *See id.*

180. S.C. Res. 1778, U.N. Doc. S/RES/1778 (Sept. 25, 2007).

## IV. PROBLEMS WITH U.N. POLICING

*A. Composition*

Except for ONUC, all U.N. policing missions involve police officers from a variety of sending states. In a sense, this can be argued to be good because it does not place the burden on a particular national police force or municipal force. However, a further evaluation results in serious questions as to the wisdom of this practice practically and in terms of maintaining sovereignty. Even among police from different parts of the US, there exists a disparity of understanding of protocols, traditional practices, and norms such as human rights law value and adherence.<sup>181</sup> Considering the sending states for U.N. policing operations typically represent states with differing stages of development, socio-religious norms, economic norms and exposure, legal constructs and methods of legal enforcement, expectations of police and relationships between the police and the state, views on what constitutes a fundamental human right, the value of human rights generally, and the importance and role of human rights law in policing, it is perhaps not surprising that problems in U.N. police missions can and do exist.<sup>182</sup>

It must be remembered that many members of U.N. police units are from countries which are relatively new or which have experienced conflict involving the police in the recent past and are still not fully recovered.<sup>183</sup> This leads to a situation where police units are uncertain what their functions are domestically and this uncertainty transfers with them when they go abroad on U.N. missions. This uncertainty can also lead to a lax sense of proper conduct and consequences for bad behavior because each contingent will logically have a different legal and societal understanding of proper police conduct and the ramifications of improper conduct.<sup>184</sup>

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181. See PERITO, *supra* note 18, at 86.

182. See PERITO, *supra* note 18, at 86. Perito, however, seems to limit the differences in background between U.N. policing members as an initial hurdle to be gotten over. *Id.* The author believes that background issues are more than an initial hurdle and are rather a monument to the lack of legal cohesion and planning used for U.N. policing activities.

183. For a breakdown of complete donor statistics for U.N. missions from 1994 until present, see Monthly Summary of Contributors of Military and Civilian Police Personnel, <http://www.un.org/Depts/dpko/dpko/contributors/> (last visited Sept. 19, 2008).

184. See Alexandra R. Harrington, *Prostituting Peace: Correlations Between the Laws of U.N. Peacekeeping Mission Sending States and Bad Acts Committed by Peacekeepers While Stationed at U.N. Missions and Their Repercussions* forthcoming in

Also, many police forces provided by sending states have themselves been or are the subject of massive human rights law violation accusations and proven claims.<sup>185</sup> Perhaps this is no more persuasively shown than in the way that U.N. police units have handled the allegations of sexual abuse which have been leveled against them, as well as their peacekeeping counterparts. As with peacekeeping, there is a direct correlation between the socio-legal sending state background of a U.N. police officer and (1) the likelihood that he will commit an act of abuse while on a mission; and (2) the likelihood that he will suffer serious consequences at home as well as on the mission if such an allegation.<sup>186</sup> Additionally, it must constantly be borne in mind that the U.N. legal and operational structure is such that all troop and police contributions to U.N. missions are voluntary and, thus, it is difficult for the U.N. Department of Peacekeeping to control the identity of sending states due to its constant need for police and troops to staff an ever-increasing number of authorized and extended missions.<sup>187</sup> Additionally, the established legal structure surrounding peacekeepers and police officers on U.N. missions mandates that, beyond reprimand and dismissal from a U.N. mission, the U.N. cannot discipline a police officer or peacekeeper as they are solely under the jurisdiction of the sending state.<sup>188</sup> This rule also makes peacekeepers and police immune to the jurisdiction of the recipient state in the event allegations of wrongdoing are made.<sup>189</sup>

Thus, the question becomes whether the legal constructs created for U.N. policing actually work to create a unit that is as comprehensive in the basic tenets necessary to carry out its mission as it is in its understanding of the mission itself. This open question is a threat to the

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the Florida State University College of Law Journal of Transnational Law and Policy (2008).

185. For example, the Bangladeshi police force—along with its military—has been the subject of a massive human rights abuse debacle. *See generally Special Report: Lawless Law-Enforcement & the Parody of Judiciary in Bangladesh*, 5(4) ARTICLE 2 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (2006), available at <http://www.article2.org/pdf/v05n04.pdf> (last visited Sept. 19, 2008).

186. *See* Harrington, *supra* note 182.

187. *See* PERITO, *supra* note 18, at 90; Serafino, *supra* note 2, at 5. It is the author's contention this system is in need of reform and it is irresponsible of the U.N. not to have a more appropriate legal framework for the evaluation of sending states' eligibility prior to deployment.

188. *See* OLA ENGBAHL, PROTECTION OF PERSONNEL IN PEACE OPERATIONS: THE ROLE OF THE 'SAFETY CONVENTION' AGAINST THE BACKGROUND OF GENERAL INTERNATIONAL LAW 51–55 (2007) (discussing the use of Status-of-Force Agreements (SOFAs) to protect U.N. peacekeeping mission personnel).

189. *See id.*; Françoise J. Hampson & Ai Kihara-Hunt, *The Accountability of Personnel Associated With Peacekeeping Operations*, in UNINTENDED CONSEQUENCES OF PEACEKEEPING OPERATIONS (Chiayuki Aoi, Cedric de Coning & Ramesh Thakur eds. 2007).

sovereignty of the recipient state because it allows a collective policing unit to operate within its territorial borders using a variety of legal and non-legal norms and constructs to inform its behavior with the guarantee of immunity from prosecution in the recipient state for conduct which is inappropriate under the laws and standards of the recipient state or the U.N. Perhaps obviously, this situation undermines the sovereignty of the recipient state and its laws, and creates a situation in which the recipient state cannot legally protect its citizens from the outside police forces deployed within its borders and with its permission.

### *B. Function and Mission Fluctuation*

As demonstrated in the descriptions of the various U.N. policing missions over time, it is highly probable that a U.N. policing operation will be required to perform a variety of functions—often not contemplated at the time the operation was created—over the life of the mission. Although this could be argued as a sign of mission flexibility, the author believes these fluctuations in mission expectation and function are dangerous to the mission and, more importantly, to the civilians the U.N. police are tasked with protecting. Mission mandates from the UNSC are extremely broad, perhaps justifiably, and primary guidance for U.N. police operations comes from the Secretary General's office and the U.N. commanders on the ground at the mission.<sup>190</sup> When these actors have differing understandings of U.N. police intent throughout a mission, a situation is created in which those deployed as U.N. police officers are faced with changing tasks, often in situations where a threat to the mission and its members causes them to become guards for the mission.<sup>191</sup> This is problematic and destabilizing to the mission, and the inherent understanding of the officers as to their functions at home and abroad, because it leads to a lack of mission knowledge for the police who are tasked with carrying out many important elements of the U.N. mission. Also, in situations where the

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190. See Head of Department of United Nations Department of Peacekeeping Operations, <http://www.un.org/Depts/dpko/dpko/info/page1.htm> (last visited Sept. 19, 2008). All U.N. missions have selected commanders who serve as the head of the mission and its military and policing components. See Current Operations of United Nations Department of Peacekeeping Operations, <http://www.un.org/Depts/dpko/dpko/> (last visited Sept. 19, 2008).

191. See *supra* Part III (describing the many instances in which U.N. police were required to provide security for U.N. peacekeeping mission personnel).

U.N. has required its police to conduct investigations into allegations of wrongdoing and to attempt to train local police, the knowledge of an imminent retasking could result in a lesser performance.<sup>192</sup> Thus, instead of uniting for a well-defined and understood goal during the period of deployment, U.N. police face the knowledge that, if mandates or directives change, so do their roles and concentrations. This undermines the sovereignty of the recipient state by weakening the overall stability and reliability of policing exercises entered into by the local police forces and U.N. police.

### *C. Training Issues*

The U.N. itself admits there is a serious, and potentially mission-threatening, disparity in the police training required of sending states prior to the deployment of police to U.N. missions.<sup>193</sup> In what was touted as a major doctrinal call for the reform of the U.N., the “Brahimi Report” trumpeted the need for police training reform by sending states when issued in 2000.<sup>194</sup> However, years after its issuance, the Brahimi Report and its supporters have yet to implement legal and structural reforms which would create a baseline of police training necessary for all members of U.N. police missions prior to their deployment.<sup>195</sup> Given the increase in U.N. policing missions generally and the UNSC’s conscious decision to co-opt police functions in several states, lack of training parity is a vital problem area. This problem poses a particular threat to the stability—and hence ability to retain effective sovereign control—of the recipient state which has transferred its police force and the training thereof to U.N. control because differences between the instructors and their training yields disparities in the lessons taught and attitudes imparted to new police recruits.

### *D. Keeping up Appearances*

U.N. peacekeeping is a function of the UNSC’s mandates and the contributions of sending states. This causes many issues in terms of

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192. See *supra* Part III (discussing the role of U.N. police in restructuring local police forces and the different roles required of U.N. police during the course of their deployment).

193. See PERITO, *supra* note 18, at 93–94; Serafino, *supra* note 2, at 8, 17–18.

194. *Report of the Panel on United Nations Peacekeeping Operations, delivered to the Security Council and General Assembly*, U.N. DOC. A/55/305–S/2000/809 (Aug. 21, 2000), available at [http://www.un.org/peace/reports/peace\\_operations/docs/a\\_55\\_305.pdf](http://www.un.org/peace/reports/peace_operations/docs/a_55_305.pdf) (This report was spearheaded by Lakhdar Brahimi from Algeria and is commonly referred to as the Brahimi Report).

195. See Serafino, *supra* note 2, at 8.

peacekeeping and policing, not the least of which is the need for U.N. peacekeeping operations to have a positive appearance for the benefit of the organization, sending states, and the concept of peacekeeping and policing in the U.N. context. This has led, and continues to lead, to situations in which peacekeeping-policing missions underperform or are afflicted with serious problems, yet these situations and problems go unreported or underreported to maintain the image of the mission.<sup>196</sup>

This is more than a dirty little secret or even a dereliction of the legal duties assumed by the U.N. when it sends a peacekeeping mission anywhere in the world. It is also a threat to the sovereignty of the recipient state because it gives the recipient state a false understanding of the situation occurring within its borders. Particularly when the maintenance of a ceasefire is at issue, this false understanding can prove deadly when the parties have incorrect knowledge of the effectiveness of the ceasefire, the ability of their own forces to maintain control of certain areas, and the time within which outside forces can be expected to leave. The author believes this is one of the primary reasons for the high rate of recidivism among nations which receive U.N. peacekeeping missions.

### *E. Setting*

There are two key issues relating to U.N. police and the setting to which they are deployed, one institutional and one based in the population. Institutionally, the proclivity of the U.N. and the international community not to define whether a state has “failed” to avoid admitting that a state has actually dissolved or ceased to exist leads to a lack of understanding on the part of the police.<sup>197</sup> Is this state completely lawless? Are there local laws to enforce and are we the ones to enforce them? Are we creating a police force in the old state framework or in a new framework which is being developed? These are sample questions which easily arise in a situation where UNSC mandates are extremely vague, the Secretary General has control over operational details and tends to parrot the UNSC, and answers are not self-evident from the situation.

In terms of population, there is an inherent question of identity. Who are the U.N. police? What do they intend to do? What can they do?

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196. See Jayamaha, *supra* note 101.

197. WILLIAM LEWIS & EDWARD MARKS, *Police Power in Peace Operations*, in CIVILIAN POLICE AND MULTINATIONAL PEACEKEEPING: A WORKSHOP SERIES 4-6 (Apr. 1999).

Who do they represent? Some argue that this uncertainty as to identity is particularly strong when U.N. police are sent in to fill a void left by departing U.N. peacekeepers.<sup>198</sup> While this might indeed be true, the author believes that, in the chaos of conflict and given the U.N.'s dismal track record of establishing effective communications with the local population generally, this identity issue permeates all U.N. policing missions, especially those such as Kosovo, where the U.N. is currently carrying out all essential state functions. Whereas some authors posit that the civilian populations in areas of U.N. intervention dislike police because they think the police are covering for the future departure of peacekeepers,<sup>199</sup> the author argues that the civilian populations are more concerned with what the U.N. police will mean to them, their power structures, and safety.

As a result, the sovereignty of the recipient state is undermined because the local population typically does not understand who the U.N. police are and what they represent. This leads to the idea that the recipient state's government cannot police its territory and thus the state has ceded its power over its territory and people to some external forces who are both foreign and unknown. This phenomenon is further exacerbated by the presence of U.N. police officers who are uncertain of their role in the community and the political realities of the state to which they have been deployed.

## V. SOVEREIGNTY IMPLICATIONS

The practical problems with U.N. policing forces discussed above illustrate the many issues involved in the U.N.'s halting attempt to create a place for police in the U.N. peacekeeping apparatus and to develop that place based on global politics rather than a settled legal framework. This Section will discuss a more theoretical, yet highly relevant, problem associated with U.N. policing: its role on sovereignty.

At its heart, the legal concept of sovereignty has always revolved around the effective control of an area and its population by a ruling group, be it a monarch or an elected government. In this setting, effective control correlated, and still correlates, to the ability to provide for the population governed. Modern societies have used many methods to exercise control over their populations, key among them the use of a local or national police force to enforce the laws of the sovereign and, as applicable, the community. For good or ill, police are methods of defining society as well as controlling it.

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198. *Id.* at 9.

199. *Id.* at 15.

In repressive regimes, police were and are associated with an unjust government, instilling terror in the population and, more often than not, inspiring the policed to work against them. Thus, police become the method through which a community defines itself in repressive regimes in that they are the thing to be fought against and not emulated. They undermine the community in that they seek to tear it apart to build a passive community to do the bidding of the government. In democratic countries there are, admittedly, instances of police brutality and action which is harmful to society. However, by and large the police are a trusted portion of the community. If there is a robbery, one phones the police and expects that they will assist in the prompt and appropriate investigation of the incident. Community policing in democratic regimes seeks to make police officers well known to the community in a good way and more easily accessible than simply keeping police in their barracks to wait for trouble to come to them. Thus, in democratic societies the police are part of the community's self-definition. This is evident even in situations of police misconduct because the community generally regards such actions as abhorrent and such allegations bring the community together to define who they are, and more importantly, are not, and the laws which are of societal importance to them. U.N. policing lacks these norms because it is not reflective of national sovereignty for the reasons set out below.

#### *A. Who's Law Are They Enforcing?*

Perhaps it is redundant to reiterate that police cannot exist without law. Be it within a tribe or in a metropolis, those who act as peace enforcers must enforce something regardless whether it is called a tribal dictate or a law. This is no different in the context of U.N. policing—outside of protecting U.N. staff members, there must be some law for these police officers to enforce or else they are essentially useless. Understanding the law being applied in U.N. police operations is not as easy as one might assume.

Perhaps the most glaring incidents of uncertainty over the law to be applied by U.N. police are in situations such as Kosovo and East Timor, where U.N. police have been transformed into *the* local and national police force. In Kosovo, the law applied by U.N. police for the past eight years has been the law promulgated by the U.N. body which is “administering” Kosovo. In East Timor, final details are still being worked out, however it is clear that the U.N. police are to use an



“international” standard of criminality in their functions as the police force for Timor; this is bolstered by the UNSC tasking the U.N. police with assisting in the recreation of the rule of law, including law itself, in East Timor. Nominally, U.N. police are working to promote the safety of citizens in these areas; in reality, they are working to introduce the legal norms of a foreign body, composed of disparate legal understandings itself, in a state which has its own legal culture and tradition. While it is true that laws in these areas were perverted to justify police and societal brutality during the times of strife which occasioned U.N. intervention, it is not true that such intervention was meant to be the death knell of law as the state and its community understood and accepted it.

Beyond Kosovo and East Timor, many U.N. police officers are required to participate in disarmament and demobilization campaigns in post-ceasefire settings. This function is less controversial in the legal sense until one gets to the actual issues involved in this process. It is increasingly true that signatories to ceasefires might not represent the entire spectrum of combatants involved. For example, in Northern Ireland, a ceasefire has been in effect for years and rival groups sit in Parliament together yet one of the holdout Ulster Unionist groups only announced its decision to disarm in November 2007 although disarmament has been a legal requirement since the time of the ceasefire.<sup>200</sup> Northern Ireland is unique in that the situation always existed inside a well established and essentially non-fluctuating legal construct which was able to act as a governor on the violence and its aftermath because of laws which were accepted by a majority of the communities at issue.<sup>201</sup> However, in conflict situations such as the ones in which U.N. police are involved, there is typically less legal and structural cohesion and thus it is more difficult to bind factions of a group to a ceasefire with which they might not agree. The issue of the law being policed becomes a question of more than just the terms of the ceasefire.

Additionally, regardless of the location, the Secretary General’s reports are replete with instances of U.N. police observing mass violations of ceasefire terms, from crossing borders to amassing weapons, by sides which were legitimately signatories to the ceasefire.<sup>202</sup> It can therefore logically be argued that the U.N. police are attempting to enforce the law of a ceasefire which neither side respects or thinks it should abide by. In this situation, there is a question as to the legal legitimacy of the

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200. See *UFF Given the Order to Stand Down*, BBC NEWS (Nov. 12, 2007), [http://news.bbc.co.uk/2/hi/uk\\_news/northern\\_ireland/7089310.stm](http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/7089310.stm) (last visited Sept. 19, 2008).

201. Despite the periods of civil unrest in Northern Ireland, there was never a time when the area was thrown into lawlessness.

202. See *supra* Part III.

ceasefire, its terms, and, thus, whether the U.N. police should be tasked with monitoring and implementing these terms.

Over time, most U.N. police missions have involved some component of training local police and assisting in the recreation of the rule of order in the area to which they are deployed. Training will be discussed further below but it should be pointed out that these forces are trained in human rights law and international concepts of law and order—whatever these might actually be given the disparate concepts of policing among the international community and even the five permanent members of the UNSC. While this might indeed be beneficial to the local community, there is a vast question as to whether these laws are actually binding on the states and police being trained. It must also be mentioned that many of the police units tasked with providing training in human rights law are themselves known and proven violators of such law, which calls into question the propriety of using these police units to train others in concepts which they have not yet mastered themselves.

Assisting in the recreation of the rule of law is, on its surface, innocuous because the police are an important part of any legal system. However, in the U.N. context, the question of an outside force attempting to recreate a rule of law system for a sovereign state directly impacts on the state's sovereignty because it implies that the state and its police force are unable to exercise an essential legislative or governmental function without international guidance. This raises the additional questions of whether the laws developed through this exercise will reflect the legal standards of the state and whether these laws will be seen as legitimate and upheld over time.

### *B. Whose' Cultural Standards Are Being Applied?*

In New York City, jaywalking is treated as a legal offense.<sup>203</sup> Drive for a few hours north of New York City and jaywalking, while of questionable legality, is *de rigueur*. This anecdote demonstrates the differences in cultural standards and attitudes towards conduct which is illegal and whether it merits punishment within as few as one hundred fifty miles. Culture is an inherent part of law and, subsequently, the maintenance of law and order.

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203. See David Rohde, *Officer Apprehends a Perpetrator. The Charge Is Jaywalking*, N.Y. TIMES, Feb. 14, 1998, at B1.

The laws applied by U.N. police and the laws under which they operate within a mission and recipient state do not necessarily resonate with the populations they are tasked with protecting. Also, the cultural understanding of their powers and purpose within a society hampers U.N. police. It is startling to note the frequency with which violence on the ground either remains high or increases once U.N. forces, and especially U.N. police, have been deployed. Coupled with the number of violent acts committed against or attempted against U.N. police officers and peacekeepers, it is evident that, by local cultural standards, the U.N. mission and its members are regarded as an impotent force, incapable of protecting themselves or those under their protection. Fair or not, cultural understandings of U.N. police are equally dismal and run the gamut from outside repressors to agents of a disliked and brutal state to child molesters.

With such cultural disdain and lack of understanding by all parties, U.N. police threaten the strength of the host state's sovereignty because they make the host state look weak and in need of help, or tyrannical. This does not help to strengthen the power of the host state or the legitimacy of the laws which U.N. police are tasked with helping to create. This also casts doubt on the acceptance of U.N. trained and vetted police forces within the communities they are tasked with policing, thus undermining the police and the policed.

### *C. What Sovereign Are They Working to Promote?*

At its most disturbing to an international law and trading system premised on state sovereignty is the image of UNMIK, which effectively is the seat of Kosovar sovereignty to the extent that it exists. Within this model, the U.N. police deployed to Kosovo work to promote the concept of Kosovar "sovereignty" created through the fiction of UNMIK and a portion of the international community.<sup>204</sup> A step down from this are the U.N. policing operations which seek to create law and protocol for, among other things, the local and national police force and to train future members of these forces. In both of these situations, a unit of multinational police officers was asked to use an "international" concept of policing to establish rules for police and to select and then indoctrinate new recruits. Selection included "vetting," although the precise requirements of this term is unclear, and a concerted effort to break the police force recruits away from their old laws, culture, and

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204. I say part of the international community because Russia voted to authorize UNMIK but will not recognize a Kosovar state separate from Serbia. See *Final Kosovo Talks End in Failure*, BBC NEWS (Nov. 28, 2007), <http://news.bbc.co.uk/2/hi/europe/7116606.stm> (last visited Sept. 19, 2008).

customs in favor of an unidentifiable sense of internationalism. Granted, many police forces were complicit in acts of unspeakable brutality and even genocide; this does not mean that an entire overhaul of the local and national police forces on an international scale is warranted or respectful of state sovereignty. Nor does it make an outside force comprised largely of those with different legal, cultural, religious, and societal beliefs—many of whom have not met the human rights and rule of law requirements mandated by the international community themselves—the appropriate body to recreate a police force for those who are attempting to solve their own national demons and move forward as a community at law and spirit.

Given the legal steps that the international community has and continues to take to avoid a state effectively disintegrating within the international system, this method of police recruitment and training seems to stand for the proposition that it is more important to maintain a state along the lines acceptable to the international community than to the will of those actually living in the state.

#### *D. Does Sovereignty Corruption Stop at the Mission's Door?*

Assuming that U.N. policing inherently violates the principle of state sovereignty which has been given primacy in international law because it corrupts and attempts to change the very concepts of law and order which define a community, is that the only damage done? Unfortunately, there have been very few studies conducted on the impact of participation in a U.N. policing mission on returned police officers. In the world of theory, however, it can be extrapolated that participation in a U.N. police mission would destabilize many police forces.

International policing inherently requires a police officer to look outside the standards and norms to which he is accustomed. It requires him to be more of a combatant than is usual in most domestic policing situations. It requires, in many instances, the police officer be involved in training new recruits in international law norms which are not used or strictly adhered to in the sending state of the police officer. It causes him to come in contact with police officers from systems which are fundamentally different from his and which challenges his concept of the police and the state which creates them. Assuming that the police in any state are the ultimate expression of the socio-legal beliefs of the state and its community, such exposures are not the equivalent of a pleasant cultural exchange. Instead, these interactions can be agents of corruption for the

system in which the police officer usually functions and to which he returns. Since this system is a reflection of the state, the experiences of a U.N. police officer on a mission can undermine the sovereignty of his sending state because they infuse an international character and understanding into a system which is an inherently domestic reflection of accepted mores and legal beliefs.

### *E. If Not U.N. Policing Then What?*

U.N. policing has been shown to be a pervasive practice on U.N. missions. Increasingly, the UNSC has required U.N. police to act in capacities outside of the advisory realm, creating situations which diminish the sovereignty of the recipient and sending state. This is due in large part to the legal framework through which the concept of U.N. policing was created and has been allowed to operate since the 1960s. Accepting the central thesis of this article—that the U.N. policing apparatus is corrosive to the sovereignties of the recipient and sending states and thus an illegitimate use of U.N. authority in an international law system premised on state sovereignty—how else can local populations and U.N. missions be protected in times of strife?

The first answer<sup>205</sup> would be to increase the power of the military troops sent on peacekeeping missions to allow them to use force when necessary to protect themselves and the local population. This would do away with the need for an auxiliary U.N. police force to assist peacekeepers in their day to day functions and security, and would foster the creation, maintenance, or both of the local police force out of necessity.

The second answer would be to adopt the police training style used by the American government.<sup>206</sup> This system provides everything from rudimentary to advanced police training to police forces in conflict and post-conflict situations yet does not carry with it the same sense of ownership of the local police force itself. Certainly, it is an established fact that police forces are on the front line of political repression and

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205. This answer is premised on accepting U.N. peacekeeping itself as a valid use of the U.N. charter and non-corrosive to state sovereignty. The author does not necessarily accept either of these positions as true; however, this answer is raised because it can be accomplished within the extant peacekeeping framework. For a further discussion of the perils of U.N. peacekeeping regarding state sovereignty, see Alexandra R. Harrington, *A Tale Of Three Nations? The Role of United Nations Peacekeepers and Missions on the Concept of Nation-State, Nationalism, and Ownership of the State in Lebanon, the Democratic Republic of the Congo, and Kosovo*, 21 CONN. J. INT'L L. 213 (2006).

206. Serafino, *supra* note 2, at 5 (describing several types of bilateral policing assistance offered by the US to a variety of countries).

violations of human rights in many conflict situations. However, procedures exist to find and try those members of the police forces who were complicit in such acts. As has been shown through the recidivism rates for U.N. missions involving policing and the duration of other missions involving policing, even attempting to hand pick new members of a police force does not correlate to changing the mentality of the police force itself or the community which it polices. Hands-off training provides the forces trained with vital information and tools to become a functioning police force and has been successful in training these police forces. In reality, this is all any outside entity can hope to do for a particular population or group because the local police must operate within the legal and society constructs created for them by law and community standards; imposing an artificial construct such as “international policing,” which is not tied to any particular laws and which has no basis in the community, does not help the recipient state or its citizens.

## VI. CONCLUSION

Police movies and the use of U.N. policing on peacekeeping missions might seem an unusual pairing. However, the goal of this article has been to demonstrate that the lessons of classic police movies translate to domestic and international police operations. There is a different relationship between the police and the policed domestically than there could ever be internationally because the inherent elements of the police and policed relationship are a shared sense of law, a shared sense of community and moral values reflected in the law, and a shared understanding for the procedural framework for the law. Even in the most oppressive of regimes, aspects of these elements are shared. It is when these elements are not shared and parity is not attempted that policing changes its tenor and the police go from agents of the sovereignty, which is represented by the police force, to agents of an outside power.

The U.N. police are the outside police force and yet they have been increasingly called on to act in the stead of the local police. Regardless of the reasons advanced for this usurpation it is exactly that, a usurpation of state sovereignty through the exercise of outside control over the state's people and territory. Although the international system might favor maintaining states within the system, there can be no denying the legal and society affects of U.N. policing on the sovereignty of the recipient state. Additionally, the sovereignty of the sending state is compromised because deployment on U.N. police missions results in exposure to concepts

and events which differ from the legal and societal expectations of the sending state.

Ideally, foreign police would never be deployed to conflict areas because there would be no need. Practically, this article has demonstrated that there are ways to train local police forces in conflict prone states without usurping or corroding sovereignty. And that is perhaps better than the conclusion of any police movie.